

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 3904 of 2005

Between:

Jalla Srinu, s/o late Sri Rathaiah,
r/o Guthikonda (V), Piduguralla Mandal, Guntur District.

..... PETITIONER

AND

1 Commissioner of Tribal Welfare, T.S.Bhavan,

Masab Tank, Hyderabad-28.

2 The Registrar, N.T.R.University of Health Science,

Vijayawada-520 008.

3 Principal, Katuri Medical College, Chinakondrupadu,

Guntur District.

4 Joint Collector, Guntur District, Guntur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction particularly one in the nature of Writ of Mandamus by declaring the impugned letter No. Rc.No. 7600/2002/TRI-VC-1, dated 21-7-2004 addressed to the second respondent by the first respondent directing to cancel the petitioner's admission to the M.B.B.S course as illegal, and without authority consequently directing the respondents not to cancel my admission and caste certificate without following the due procedure prescribed under the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules 1997 and permit the petitioner to prosecute the MBBS Course and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.HANUMANTHA REDDY

Counsel for the Respondent Nos.1 and 4: GP FOR SOCIAL WELFARE

Counsel for the Respondent No.2: SMT Y.PADMAVATHI

The Court at the admission stage made the following:

ORDER:

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Seeking to issue a Writ of Mandamus, by declaring the impugned letter No.Rc.No.7600/2002/TRI-VC-1, dated 21.07.2004, addressed to the 2nd respondent by the 1st respondent, directing to cancel the petitioner's admission to the M.B.B.S Course, as illegal and without authority, the present writ petition is filed.

The brief facts that are necessary to dispose of the writ petition, may be delineated as follows:

According to the petitioner, he belongs to Chenchu community, which is recognized as Scheduled Tribe. After passing Intermediate, he appeared for 2002 EAMCET examination and he got seat in M.B.B.S Course and joined in the 3rd respondent College. The Mandal Revenue Officer, Piduguralla, who is competent authority to issue caste certificates, has issued community certificate to the petitioner, to the effect that he belongs to Chenchu community, which is recognized as Scheduled Tribe. The 1st respondent sent a report to the Collector, Guntur, expressing a doubt about his community, and consequently, the 4th respondent has issued Form V reference dated 25.11.2004, directing him to attend his chambers on 02.12.2004. Accordingly, the writ petitioner has attended before the 4th respondent and produced ample documentary evidence to substantiate his claim. Without waiting for the result of the statutory enquiry, the 1st respondent, through the impugned letter, directed the 2nd respondent, to cancel his admission to the M.B.B.S Course, on the ground that he does not belongs to Chenchu community. Challenging the same, the present writ petition is filed.

A detailed counter affidavit has been filed by the 1st respondent, stating that the writ petitioner was granted provisional admission under Scheduled Tribe category in

M.B.B.S Course in the year 2002-03, by obtaining an undertaking from him. In the said undertaking, the petitioner agreed for conducting a detailed enquiry by the Commissioner of Tribal Welfare and will abide by findings of the said enquiry. Further the petitioner also agreed for termination of his provisional admission in the said course on the success of findings in the said enquiry. In view of the specific undertaking given by the petitioner, the petitioner was given provisional admission. Based on the information, furnished by the candidate and his mother, a detailed enquiry has been conducted by collecting documentary evidence, which has been established that the petitioner does not belong to Chenchu community, and hence, the

2nd respondent was directed to cancel the admission of the petitioner. Therefore, the writ petition is devoid of merit.

The learned counsel for the petitioner contended that the District Collector alone is competent for cancellation of caste certificate under Rule 9 (10) of A.P. (SC,ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997, and the 1st respondent is not competent to issue the impugned proceedings, directing the

2nd respondent to cancel the provisional admission of the petitioner, and therefore, he prays to set aside the impugned proceedings.

On the other hand, the learned Government Pleader, appearing for the 1st respondent, contended that since the petitioner given undertaking at the time of admission, agreeing for a detailed enquiry to be conducted by the Commissioner of Tribal Welfare, and further agreed for termination of his provisional admission in the said course on the basis of the said enquiry, therefore, the 2nd respondent is competent to conduct an enquiry, and hence, the impugned proceedings cannot be challenged.

A short point that arises for consideration is whether the

1st respondent is competent authority to issue necessary instructions to the 2nd respondent to cancel the provisional admission of the petitioner.

The petitioner was admitted in the M.B.B.S course in the year 2002. The claim of the petitioner is that he belongs to Chenchu, Scheduled Tribe community. On the basis of a certificate issued by the Mandal Revenue Officer, Piduguralla, to

the effect that the petitioner belongs to Chenchu community, which is recognized as Scheduled Tribe, the petitioner was given admission in M.B.B.S course. At the time of admission, the petitioner gave an undertaking to the Commissioner of Tribal Welfare, to the effect that he agreed for a detailed enquiry, to be conducted, with regard to his social status certificate, by the Commissioner of Tribal Welfare, and further agreed for termination of his provisional admission in the said course, on the basis of the findings of the said enquiry.

On the pretext that the petitioner agreed for enquiry to be conducted by the 1st respondent, it does not mean that the 1st respondent is empowered to cancel the social status certificate of the petitioner. Admittedly under Rule 9(10) of A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997, the Collector is the competent authority to cancel the social status certificate given by the Mandal Revenue Officer after following due procedure. So the 1st respondent has no authority or competent to direct the 2nd respondent to cancel the provisional admission of the petitioner in M.B.B.S course. If the petitioner does not belong to Chenchu community, it is for the concerned District Collector to take appropriate decision, after conducting an enquiry. So, as per the Act and Rules, it is only the District Collector, who is competent to cancel the caste certificates. The 1st respondent has no authority to cancel the social status certificate, issued by the competent authority.

It is admitted before this Court that an enquiry is pending before the District Level Scrutiny Committee. Therefore, the 4th respondent, who is the Chairman of District Level Scrutiny Committee, is directed to complete the enquiry, within a period of 3 (three) months from the date of receipt of a copy of this order. The observations made in this writ petition will not effect or impact in conducting enquiry and passing orders by the 4th respondent.

With the above observations and directions, the Writ Petition is allowed, quashing the impugned letter dated 21.07.2004.

Dated: 18.03.2005

Dsr

Note:

Issue CC by tomorrow

B/o

Dsr

ASSISTANT REGISTRAR

To:

1. The Commissioner of Tribal Welfare,
T.S.Bhavan, Masab Tank, Hyderabad-28

2. The Registrar, N.T.R.University of Health Science,
Vijayawada-520 008

3. The Principal,
Katuri Medical College,
Chinakondrupadu, Guntur District

4. The Joint Collector,
Guntur District, Guntur

5. Two CCs to the Government Pleader

for Social Welfare, High Court Buildings,
Hyderabad (OUT)

6. Two CD copies

7. 1 CC to MR.HANUMANTHA REDDY

*Form-NIC-OGS/WP{**RS**}*